PATENT
J6877(C)
03-0379-HC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Dabkowski et al.
Serial No.: 10/764,114
Docket No. J6877(C)
Filed: January 23, 2004
For: MILD VISCOUS CLEANSING COMPOSITIONS WITH VERSATILE COMPATABILITY AND ENHANCED CONDITIONING

Group: 1751
Examiner: Delcotto, Gregory R
Englewood Cliffs, NJ 07632
April 17, 2006

DECLARATION FILED UNDER 37 CRF § 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Cinda Sue Carlson, a citizen of the United States, residing at 1176 Wenonah Avenue, Oak Park Illinois 60304, do hereby declare that:

1. I hold the degree of Masters in Science in Chemistry from Illinois State University and am a member of American Chemical Society, Society of Cosmetic Chemists and Sigma Xi, The Scientific Research Society.

2. I am presently employed as a Senior Project Scientist by Unilever Home and Personal Care USA in the Hair Development Group located at 3100 Golf Road, Rolling Meadows, Illinois 60008. I have worked in the Unilever Hair Development Group at Rolling Meadows since 2002.

3. I have read Dabkowski et al, U.S. Patent Application S.N. 10/764,114, filed January 23, 2004, of which I am a named Inventor.

4. The experiments described below were carried out under my supervision and are reported accurately herein.

5. Experiments were carried out to distinguish the present invention from the disclosures of Patel et al in US 6,165,454, Baravetto et al in US 6,174,522, and Fairley et al in US 2002/01922180. In particular, the experiments demonstrate significant differences in intrinsic mildness as measured by Zein solubilization that reflect the critical differences between the types of surfactants used and their relative amounts in the compositions.

6. The examples selected for testing from the references cited as prior art during examination were chosen to be representative of the mildness compositions disclosed in the references.

7. The compositions, given in Table 1 below were prepared according to the descriptions given in each reference. The location of these descriptions are identified by column and line numbers in the Table 1. Each composition is a "full formulation" from the patent examples identified using the same materials described in the reference. The compositions were prepared during the period from March 28th to April 7th 2006. The methods of preparation were similar to those described in the references. However, some small modifications were made because of differences in available equipment. These process modifications are not expected to have any effect on the subsequent mildness results because the surfactant compositions are isotropic liquids, e.g., equilibrium solutions.

8. Each composition was tested under identical conditions for the amount of Zein protein that could be dissolved under standardized conditions. As discussed in Dabkowski et al (Page 27) zein solubilization is a widely used in-vitro method to asses the mildness of shampoo and skin cleansing compositions. The procedure employed is identical to that described by Dabkowski et al on pages 27 and 28 of the application.

9. The zein solubilization results are collected in Table 2 below. The results indicate that all of the example compositions tested that were disclosed in the references cited in examination have a zein solubility much greater than 1% and are expected to be irritating to eyes.

10. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this patent application or any patent issuing thereon.

Dated: 4/17/06

Cinda Sue Carlson

Cinda Sue Carlson

Table 1 Compositions Prepared

PATENT AND EXAMPLE NO.	INGREDIENTS	WT%	PREPARATION
Patel et al Ex 33 US 6,165,454 Example 33 Table F Column 13	Water	To 100%	Basic Method described on column 8, line 61 to column 9, line 60
	SLES-2EO (28%)	43	
	CAP betaine (30%)	13.34	
	Acuyln® 22 (30%)	5	
	Dimethicone (60,000)	3	
	Preservative (Kathon CG)	0.1	
Patel et al Ex 44 US 6,165,454 Example 44 Table G Column 15	Water	To 100%	Basic Method described on column 8, line 61 to column 9, line 60
	ALS (28%)	43	
	CAP betaine (30%)	16.67	
	Acuyln® 33 (28%)	7.14	
	TAB-2	2.5	
	Zinc Pyrithione "ZPT", 50%	2.0	
	Preservative (Kathon CG)	0.1	
Patel et al Ex 55 US 6,165,454 Example 55 Table H Column 15	Water	To 100%	Basic Method described on column 8, line 61 to column 9, line 60
	SLES-2EO (28%)	43	
	Polyquaternium 7 (8%)	2.5	
	CAP betaine (30%)	13.34	
	CDEA	0.5	
	Acuyln® 33 (28%)	5.9	
	Dimethicone (60,000)	3.0	
	Preservative (Kathon CG)	0.1	
	DSDAC	0.2	
Patel et al Ex 73 US 6,165,454 Example 73 Table K Column 19	Water	To 100%	Basic Method described on column 8, line 61 to column 9, line 60
	SLES-2EO (28%)	33.0	
	Polyquaternium 10 (100%)	0.35	
	Polyquaternium 7 (30%)	3.0	
	CAP betaine 30%	17.0	
	CDEA (90%)	0.6	
	Acuyln® 33 (28%)	5.89	
	Dimethicone (60,000)	3.5	
	DSDAC	0.25	
	Preservative (Kathon CG)	0.1	

Table 1 - Continued

Baravetto et al Ex VI US 6,174,522 Middle Table Column 24	Ammonium laureth-3 sulfate	14	Method of preparation described at column 23, line 40 to column 24, line 9
	Cocoamidopropylbetaine	2.7	
	Polyquaternium 10	0.15	
	Cocamide MEA	0.8	
	Ethylene glycol distearate	1.5	
	Dimethicone (1)	1.0	
	Dimethicone (4)	1.5	
	Perfume	0.7	
	DMDM Hydantoin	0.37	
	Water	To 100%	
Baravetto et al Ex X US 6,174,522 Middle Table Column 24	Ammonium laureth-3 sulfate	12.5	Method of preparation described at column 23, line 40 to column 24, line 9
	Cocoamidopropylbetaine	4.2	
	Polyquaternium 10	0.15	
	Cetyl alcohol	0.42	
	Stearyl alcohol	0.18	
	Ethylene glycol distearate	1.5	
	Dimethicone (1)	1.0	
	Dimethicone (4)	2.25	
	Perfume	0.7	
	DMDM Hydantoin	0.37	
	Water	To 100%	
Fairley et al Ex 1 US2002/01922180 Table, Page 8 Example 1	Carbopol 980	0.4	Method of preparation as described at paragraph [0148]
	SLES-2EO	14.0	
	CAPB	2.0	
	Jaguar C13S	0.1	
	Perfume	0.6	
	Glydant plus	0.2	
	Soybean oil	3.0	
	Sodium Chloride	1.0	
	BHT	0.24	
	Water	To 100%	

Table 2 Comparison of disclosed compositions in zein protein solubilization

COMPOSITION	%ZEIN SOLUBILIZED[ab]
Patel et al Ex 33	2.25 ±0.10
Patel et al Ex 44	3.27 ±0.09
Patel et al Ex 55	2.67 ±0.05
Patel et al Ex 73	1.63 ±0.08
Baravetto et al Ex VI	2.07 ±0.04
Baravetto et al Ex X	1.91 ±0.01
Fairley et al Ex 1	3.11 ±0.07

a) See p 27 of Dabkowski et al, U.S. Patent Application S.N. 10/764,114, filed January 23, 2004.
b) Results are an average of five repeats.